the duly constituted authorities will be little influenced by a schedule of the investments of those whose activities secured its adoption or by a knowledge that outside of the ratifying conventions it had more opponents than adherents. Yet if the Mount Sinai from which the law was secured is shown to be but a little hill, there is added justification for interpretating its provisions *"dans un sens évolutif"*. An instrument designed primarily to meet the pressing needs of important interests at the time of its adoption should be interpreted so far as its language will permit to meet "the great public needs" of the generations which follow.

Thomas Reed Powell.

AIDS TO THE STUDY AND USE OF LAW BOOKS. By FREDERICK C. HICKS, Assistant Librarian of Columbia University. New York: BAKER, VOORHIS & Co. 1913. pp. 129.

Of "books about books" it has been said that they are not books at all, since they belong in neither of the two great classes into which the productions of the pen have been divided, the literature of knowledge and the literature of power. While this is a sound criticism of such works as lead us to be content with a second hand instead of a first hand acquaintance with the literature on which our culture or our professional learning is based, it has no application to books which seek to guide us to that literature or help us to appraise its value for our purposes. These, if not literature, are at least books, and in an age suffocated with works which claim our attention, books of indispensable value. It is to this useful class of books about books, that Mr. Hicks' little handbook belongs. The sub-title describes its scope and purpose: "A selected list, classified and annotated, of publications relating to law literature, law study and legal ethics". Under the head of "Law Study" it has gathered an interesting mass of material dealing with the state and methods of legal education in England and America, from William Dugdale's *"Originales Juridiciales"* (1680) to Charles Warren's "History of the American Bar" (1913) and including such matter of permanent value as Professor J. B. Ames' "Vocation of the Law Professor" and Heinrich Brunner's "Sources of the Law of England". There are chapters on "How and Where to Find the Law", "Legal Bibliographies", "Legal Terminology", "Text Books and Treatises" (American and British), "Case Law", "Statutes and Session Laws", "Law Collections in the United States" and "Legal Ethics". Except in the first and last chapters "the work is composed chiefly", as the preface states, "of annotated titles about law books". It will be seen from this description that the work furnishes just the kind of information that the law student most needs to enable him to find his way through the mazes of legal literature. The only improvement which can be suggested is further annotation indicating the relative values of the books enumerated. It is to be hoped that, in a second edition, Mr. Hicks will furnish this additional help. The work has been furnished with a full index.

George W. Kirchwey.

THE CANADIAN TORRENS SYSTEM. By DOUGLAS J. THOM. Calgary, Saskatchewan: BURROUGHS & Co. 1912. pp. xl, 798.

The above-named work is one of the most careful and analytical examinations of the Canadian Title Registration System which has

yet appeared, and decidedly merits an examination by those interested in this method of conveyancing.

It is written with special reference to practice in Manitoba, Saskatchewan, and Alberta, and contains the statutes and approved Torrens conveyancing forms of these Provinces, together with a table of some six hundred (600) references to decided cases, and the full decisions in several leading authorities.

The fact that the index is sufficiently complete to cover about one-tenth the number of pages devoted to the text is an indication of the author's intent to make his book of practical use to the working lawyer, while a minute sub-division of the topic, indicated by full headings at the beginning of each chapter, renders it of value to the more elementary student.

In the State of New York, interest has never been largely aroused by the enactment of Article 12 of the Real Property Law, establishing, as collateral with the old and approved method of *deed recording,* what may properly be described as an emasculated system of *title registration,* and judging by the lessening number of applications by real property owners for registration of their titles, interest has, of late, considerably diminished rather than increased.

It is a truism that no system—domestic, business, or legal—can disregard the increasing and changing demands of an advancing civilization, and continue adequate to the purposes for which it was established.

To say that no improvement could be made in our present method of conveyancing, would, accordingly, be idle. In general, however, public needs are better served by suitable alterations and improvements in a system which has demonstrated its usefulness, than by the revolutionary substitution of measures which, even if eventually practicable, must injure many individuals before they can be moulded to harmonize with the requirements of a complex civilization.

Of the Torrens System, even as perfected, the author says, "The doctrine of the indefeasability of a registered title and the policy of protecting the bona fide purchaser for value from a registered owner in some cases must divest estates and interests from innocent persons, and work hardship * * *".

It is said, and we believe truly, that, in all countries in which this system has been adopted, constant amendments have indicated that if, indeed, it does not possess some fundamental and hence irremediable defect, at least it has not attained anything like a perfected state.

Probably an explanation lies in the fact that a race which has once escaped the thraldom of law, untempered by equity, will not again entrust itself, save in cases of utmost necessity, to purely statutory regulation, particularly in connection with rights so dear to the Anglo-Saxon heart as those concerning real property.

The author himself says, "The Acts themselves recognize the impossibility of keeping away entirely from the ordinary doctrine of courts administering equity, of equitable estates".

Yet the basis of ownership, under the title registration system, may fairly be said to be a *perfect compliance with statutory requirements, unaffected by equitable rules or considerations,* and departure from this principle cannot fail to detract from the certainty, without which the Torrens system has no value for any purpose.

There is also, quite possibly, a reluctance upon the part of business men to deal together by a method through which such dealings become neither valid nor effectual until a memorandum thereof shall have

been registered in a public office by a third person, himself liable to error.

As England and Canada have been trained to accept Parliamentary supremacy, practically untrammeled by constitutional limitations, it may be seen that the difficulties of these two countries will, at least, not be lessened in our own land, where constitutional safeguards are the dearest heritage, and it may, therefore, be interesting to note some of the embarrassments which have resulted from the adoption of the registration statutes, as indicated in the work under review.

The author, in his introduction, classifies as one of the defects of the old system, equitable estates, which could not be established at law, but which were based upon right, and yet admits that strict construction and technical requirements will prove a bar to the system's practical success, and that the liberty of the Registrar in Manitoba to substitute moral certainty for legal certainty is the basis of the popularity of the system.

Further, a large part of his work is devoted to the discussion of those cases in which Courts of Equity decline to be bound by the apparent terms of the statute and continue to enforce with more or less independence equitable rights and estates.

Examples of the many uncertainties and difficulties under this method of conveyancing are questions connected with tax sales and easements; the impossibility of the registration of agreements which parties may actually make; the proper effect to be given to registered and unregistered trusts and to an unregistered instrument creating legal rights; the effect of actual notice of a fraud not obtained from the registry, and of forged instruments; the persons to whom registration is notice; the effect of misdescription of the property; the effect of the death of a transferor after the execution of the instrument of transfer, but before registration; the time at which real property is seized in execution; the rights of a mortgagee without legal proceedings; and the rights obtained by the filing of caveats.

As it is registration, and not execution or delivery, which validates an instrument under this system, and as the Registrar is given a large measure of judicial power to determine the validity and registrability of an instrument, questions must also necessarily arise concerning the extent and propriety of the exercise of such power, as well as whether the person presenting the duplicate certificate with the instrument to be noted thereon, is in any special case rightfully in possession thereof, and hence entitled to procure the registration.

Many of the above questions are rendered doubly important by the fact, as suggested by the author, that these statutes make "drastic, if not revolutionary" changes in the methods of securing and enforcing substantive rights of property, and "result in effecting a very real difference in the nature of the estate held by the registered owner from either a legal or an equitable estate as known to English law".

Even under the Canadian system, whereby the existence of an insurance fund is assured, differences of opinion as to whether and when damages may be recovered out of such fund, leave the possibility of relief therefrom in specific cases undetermined.

In view of the fact that it is generally stated that the Torrens system facilitates conveyancing, because the whole record title is shown on the face of the certificate, it is interesting to note the author's statements that this system must, of necessity, operate more slowly than the old method, because of the required examination of every instrument by the Registrar, in order to determine its validity and

registrability; that, because certain instruments are not registerable, but are, nevertheless, enforcible in equity, resort must be had to them, in order to determine the state of the title; and, finally, that "there is nothing, either in the acts or in any of the decisions, to suggest that a certificate of title is intended to be, as it were, in the nature of a continuing charter of rights in favor of the registered owner, enabling him to defeat interests, equitable or otherwise, arising by his own acts".

In fact, the reader is expressly warned that directly opposing theories of the underlying principle of title registration are announced by the two leading authorities, *Gibbs* v. *Messer,* and *Assets Company* v. *Mere Roihi,* and that the determination of many important points must depend upon which view is accepted as conclusive.

The above discussion is not intended to express any personal view upon the practicability of this system, but simply to suggest some of the questions which must be considered by the conscientious conveyancer before he can advise a client whether it is desirable to bring real property under the Title Registration Law.

Henry Crofut White.

THE LAW OF QUASI-CONTRACTS. By FREDERICK CAMPBELL WOODWARD. Boston: LITTLE BROWN & Co. 1913. pp. xxi, 498.

Since the appearance in 1893 of Keener on Quasi-Contracts, there has been much adjudication of quasi-contractual questions, and consequently great development of this branch of the law. In view of these facts the need of a new presentation of the subject, and of a systematic consideration of the modern cases has been increasingly felt during the last few years. This need has been very ably met in Professor Woodward's new book, which is clearly the result of much thought, and an exhaustive study of the authorities. The author is generous in acknowledging his indebtedness to Judge Keener's pioneer work, but he does not hesitate to disagree with his predecessor in this field, as for example in sections 96, 98, 99, 117, 129, 150, 165, 180, 194, among others.

Obligations giving rise to civil remedies may be divided into contract obligations, tort obligations and law-imposed obligations other than those of tort, and to this last class is given the name "quasi-contracts", because actions on such obligations are generally contractual in form. The reader may be a little disappointed in picking up Professor Woodward's book to find that he restricts himself to less than the whole field of quasi-contractual obligations, confining his discussion to "obligations arising from unjust enrichment". However, the author is of course correct in stating that the obligations of which he has chosen to treat "constitute a homogeneous group, essentially different from all others", and perhaps we should not quarrel with any writer who refuses to enter the whole field open to him, if the area to which he confines himself has such natural boundaries as that to which the present work is restricted. Professor Woodward also doubts if the alternative obligation to pay for enrichment received, which rests upon one who has broken a contract or committed a tort, is properly quasi-contractual, and only includes the discussion of such obligations at the end of his work on grounds of convenience. The result of this is that, instead of all cases being grouped together which involve enrichment received under contracts, those cases where the